

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Anthony J. Baerlocher
Patent No.: 7,806,760
Issued: October 5, 2010
Appl. No.: 10/649,091
Filed: August 27, 2003
Title: GAMING DEVICE HAVING A MULTIPLE SELECTABLE INDICATOR
GAME
Art Unit: 3714
Examiner: Matthew D. Hoel
Conf. No.: 4932
Docket No.: 3718611-01411

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Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

**REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT
UNDER 37 C.F.R. § 1.705(d)**

Sir:

Patentees hereby petition for reconsideration of the Patent Term Adjustment accorded the above-referenced application at time of issuance. The Issue Notification and Determination of Patent Term Adjustment under 35 U.S.C. 154(b), states that the Total PTA is 1715 days. That is, USPTO Delay 1965 days and APPL Delay 250 days. The USPTO Delay days of 1965 appear to be overstated, resulting in the Total PTA being longer than appropriate on the issue date of October 5, 2010.

Patentee respectfully requests a review of the prosecution file history, with attention to the December 24, 2008 entry, Mail Non-Final Rejection.

STATEMENT OF FACTS

35 U.S.C §154(b)(2)(A) provides:

[t]o the extent that periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

The PAIR Transaction History correctly reflects the mailing of the Non-Final Office Action on January 29, 2007, and accorded a USPTO Delay of 65 days.

The PAIR Transaction History also correctly reflects the mailing of the Non-Final Office Action on December 24, 2008, and accorded a USPTO Delay of 20 days.

These USPTO Delays of 85 days overlap the delay attributable to grounds specified in 35 U.S.C §154(b)(1)(A) and 35 U.S.C §154(b)(1)(B).

However, the Patent Term Adjustment accorded the above-referenced application at time of issuance reduced the USPTO by 65 days to only reflect the 65 overlapping days associated with the mailing of the Non-Final Office Action on January 29, 2007. That is, the Patent Term Adjustment accorded the above-referenced application at time of issuance appears to not reduce the USPTO by 20 days to reflect the 20 overlapping days associated with the mailing of the Non-Final Office Action on December 24, 2008.

This patent is not subject to a Terminal Disclaimer, and there were no circumstances constituting a failure to engage in reasonable efforts to conclude processing or examination of this application on the part of the Patentee.

REMARKS

In consideration of the events described above, Patentees believe the Total PTA calculation of 1715 days appears to be overstated as of the issuance date. Patentees respectfully request reconsideration of the patent term adjustment in the following manner.

1) USPTO Delay to be corrected to reflect a reduction of the 20 overlap days associated with the mailing of the Non-Final Office Action on December 24, 2008, thereby decreasing the USPTO Delay by 20 days, from 1965 days to 1945 days.

2) APPL Delay: 250 days – correct as stated;

3) Total PTA days be reduced from 1715 to 1695 days (1715 minus 20).

Pursuant to 37 CFR § 1.18(e), the fee of \$200 is submitted herewith. To the extent that any additional fees are due and owing for this Petition, the Commissioner is hereby authorized to charge them to Patentee's undersigned attorney's Deposit Account 02-1818.

Thank you for your consideration.

Respectfully submitted,

K&L Gates LLP

BY



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Dated: December 5, 2010